

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF CALIFORNIA

In re: No. C 07-4826 CW
C 08-0800 CW
DEAN GORDON POTTER,
Debtor.
(Bk. No. 06-42423 LT-11)

ORDER RE: COMPLIANCE
WITH COURT'S MARCH 21,
2013 ORDER (Docket No.
59)

UNICO Services INC
Plaintiff,
v.
UNITED STATES OF AMERICA.
Defendants.

On March 21, 2013, the Court entered an order granting the parties' stipulated scheduling order in this case. (Docket No. 59). The order required, among other things,

On or before March 29, 2013, Potter (1) will provide an accounting of all offshore funds to the United States; (2) repatriate all offshore funds or file a report with the Court describing all offshore funds and all efforts to repatriate them; and (3) Potter and Unico will deposit the full payment of tax, penalties, and interest due on the OEL issues with the Bankruptcy Court or explain why they cannot fully perform and further estimate the date of their full compliance.

Docket No. 59 ¶ 3.

On March 29, 2013, Mr. Potter filed a "Report to Court Regarding Accounting and Status of Deposits to Registry of Court." Bankruptcy Court Docket No. 305. The government has now filed a

1 motion, asserting that Mr. Potter failed to comply with any of the
2 requirements set out in Paragraph 3 of this Court's March 21, 2013
3 order and seeking relief from its obligation to calculate the tax
4 consequences of the accounting provided for in Paragraph 3 by
5 April 12, 2013. In its filing, the government provides a list of
6 all offshore transfers, including dates of transfer and amounts,
7 and requests that Mr. Potter be required to provide for each
8 investment purchased with these funds, the (1) date of purchase;
9 (2) cost basis; (3) any interest, dividend, or other distribution
10 including amount and date; (4) any loan transactions; and (5) any
11 date of sale with gross proceeds. The Court finds this request to
12 be reasonable. The government also asserts that Mr. Potter has
13 failed to repatriate funds or to full pay the agreed tax
14 liabilities plus interest as required by the Court's March 21,
15 2013 order.

16 If Mr. Potter believes that his March 29 filing complies
17 fully with the Court's order, he shall, within four days of the
18 date of this order, file a response to the government's motion.
19 At that time, Mr. Potter shall also provide (1) the information
20 requested by the government with respect to the funds transferred
21 offshore, or an explanation of why he cannot or should not be
22 required to provide such information and (2) any response to the
23 government's assertion that he has failed to repatriate funds or
24 to pay in full the agreed tax liabilities plus interest as
25 required by the Court's March 21, 2013 order. If Mr. Potter files
26 such a response, the government may file a reply within three days
27 thereafter.
28

1 If Mr. Potter agrees that his March 29 filing is deficient,
2 he shall, within seven days of the date of this order, take any
3 actions necessary to comply fully with Paragraph 3 of the March
4 21, 2013 order. At that time, Mr. Potter shall also provide (1)
5 the information requested by the government with respect to the
6 funds transferred offshore, or an explanation of why he cannot or
7 should not be required to provide such information and (2) any
8 response to the government's assertion that he has failed to
9 repatriate funds or to pay in full the agreed tax liabilities plus
10 interest as required by the Court's March 21, 2013 order. If Mr.
11 Potter does so, the government shall submit a calculation of the
12 tax consequences of the accounting provided for in Paragraph 3 of
13 the March 21, 2013 order within fourteen days thereafter.

14 In its filing, the government requests that the Court order
15 Mr. Potter to appear to explain his alleged failure to comply with
16 the Court's March 21, 2013 order and to show cause why he should
17 not be ordered to comply. If the government is not satisfied with
18 Mr. Potter's response to this order, it may renew this request.

19
20 IT IS SO ORDERED.

21
22 Dated: 4/12/2013

23
24
25
26
27
28

CLAUDIA WILKEN
United States District Judge